

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARK JONATHAN GOSSETT,

Petitioner,

v.

JASON BENNETT,

Respondent.

CASE NO. 3:24-cv-5408

ORDER

I. INTRODUCTION

THIS MATTER comes before the Court on pro se prisoner petitioner Mark Jonathan Gossett's motions for relief from judgment. Dkts. # 18-20, 23-26.¹ On August 21, 2024, the Court adopted the Report and Recommendation of S. Kate Vaughan, United States Magistrate Judge ("R&R"). *See* Dkts. # 4, 15. The Court dismissed Mr. Gossett's petition pursuant to 28 U.S.C. § 2244(a), as it constituted an unauthorized second or successive petition and denied a Certificate of Appealability. Mr. Gossett has since appealed. Dkts. # 21-22.

¹ The court exercises its discretion to decide the motion before the October 18, 2024 noting date of the most recently filed Motion, Dkt. # 26. *See* Fed. R. Civ. P. 1 (directing district courts to administer the rules of procedure "to secure the just, speedy, and inexpensive determination of every action and proceeding").

II. DISCUSSION

Mr. Gossett's motions for relief from judgment, are difficult to follow, and do not address the substance of the R&R or the reasoning behind it. Petitioner challenges the judgment for not applying successive analysis pursuant to *Sanders v. United States*, 373 U.S. 1 (1963), finality analysis pursuant to *Gospel Army v. Los Angeles*, 331 U.S. 543 (1947), and a retroactivity analysis pursuant to *Teague v. Lane*, 489 U.S. 288 (1989). See Dkts. # 18, 19, 23. Petitioner asserts the Court violated the Magistrate Act and Habeas Rule 4 and 8(b) by recharacterizing petition's claim as a under § 2254. See Dkt. # 20. Petitioner asserts that the Court violated the Magistrate Act and Habeas Rule 8(b) by failing to conduct de novo review of his petition and subsequent motions. See Dkts. # 24-26.

Petitioner does not address the authority under which his motion is made, Federal Rule of Civil Procedure 60(b)(4), and he does not address the standard for a motion for reconsideration. To the extent Mr. Gossett challenges de novo review of his motions filed before the Court adopted the R&R, the Court properly considered the motions and construed them as objections to the R&R. See Dkt. # 15 at 1 n.1.

III. CONCLUSION

The Court's judgment is not void, and Mr. Gossett is not entitled to a Certificate of Appealability, because his habeas petition is plainly a second or successive petition. Accordingly, the Court **DENIES** the pending motions. Dkts. # 18-20, 23-26. The case remains closed.

DATED this 8th day of October, 2024.



The Honorable Richard A. Jones
United States District Judge